

PS 2272.07 ACCEPTANCE OF TRAVEL FUNDING FROM OUTSIDE SOURCES



Program Statement

OPI: OGC
NUMBER: 2272.07
DATE: 7/15/99
SUBJECT: Travel, Acceptance of
Funding from Outside
Sources

1. **PURPOSE AND SCOPE.** To provide policy and procedures for a Bureau employee to accept funding for official travel from sources other than the Federal Government, such as the private sector, state and local governments, and foreign nations. Using these funds reduces Federal Government expenditures and makes such travel more cost-effective.

This Program Statement does not apply to non-official travel, except as addressed in Section 7.

2. **SUMMARY OF CHANGES.** The Directives Referenced and Standards Referenced are updated.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. Staff will be able to use non-Bureau funding for such purposes as training, meetings, and conferences.

b. Travel will be done at reduced or no cost to the Federal Government.

c. Funding will be approved and accepted in accord with established, consistent procedures that ensure compliance with high ethical standards.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 2272.03	Travel, Acceptance of Funding from Outside Sources (5/30/95)
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b. **Directives Referenced**

PS 1350.02 Acceptance of Donations (6/29/98)
PS 2200.01 Travel Regulations (11/1/84)
PS 3420.09 Standards of Employee Conduct (2/5/99)
PS 4400.03 Property Management Manual (12/31/97)

18 U.S.C. § 209 Salary of Government Officials and
Employees Payable Only by United
States
OMB Bulletin 93-11 Fiscal Responsibility and Reducing
Prerequisites

c. Rules referenced in this Program Statement are contained in
5 CFR 410, 5 CFR 2635, and 41 CFR 304-1.

5. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for
Adult Correctional Institutions: 3-4067

b. American Correctional Association 3rd Edition Standards for
Adult Correctional Institutions: 3-ALDF-1C-23

c. American Correctional Association 2nd Edition Standards for
Administration of Correctional Agencies: 2-CO-1C-24

d. American Correctional Association for Adult Correctional
Boot Camp Programs: None

6. STATUTORY AUTHORITY

a. Pursuant to 31 U.S.C. § 1353 and 41 CFR 304-1.3, an agency
may accept payment from a non-Federal source (or authorize an
employee to receive such payment on its behalf) for official
travel to a meeting or similar function under these rules.
Pursuant to 41 CFR 304-1.3(c), payment acceptance must be in
accord with internal agency (Bureau) procedures.

b. Pursuant to 5 U.S.C. § 4111, employees may accept payment
of travel expenses incident to a meeting or training at a
non-Federal facility from tax-exempt organizations, subject to
executive regulation. Pursuant to 5 CFR 410.701(b) and
41 CFR 304-2.3, agency heads may create regulations pertaining to
the payment of travel funds by these organizations.

c. Pursuant to 5 U.S.C. § 7342(c)(1)(ii), an employee may accept gifts of expenses for travel which take place entirely outside of the United States from foreign governments, subject to permission and regulation by the employing agency. Pursuant to 5 U.S.C. § 7342(j), the employing agency may use more stringent limitations than the statute requires.

7. NON-OFFICIAL TRAVEL. This Program Statement only covers the use of outside funding for official travel. If an employee is accepting travel funds in his or her private capacity, the Ethics in Government Act, the regulations in 5 CFR 2635, and the criminal conflict of interest statutes in 18 U.S.C., Chapter 11, apply.

In these situations, prior authorization to accept funds is not formally required. It is strongly suggested, however, that the employee obtain an opinion from the Ethics Officer prior to accepting travel funds in his or her private capacity (using the procedures in this Program Statement), to avoid the risk of criminal sanctions.

Employees accepting travel funds from outside sources should also be aware of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635, including the subparts pertaining to gifts from outside sources in 5 CFR 2635.200, and accepting compensation for teaching, speaking and writing, in 5 CFR 2635.807.

8. DEFINITIONS

a. **Official capacity** means an employee is:

- (1) Acting as an official Bureau representative;
- (2) Attending training during a period when the employee is partially or wholly on duty;
- (3) Attending training or a meeting for which the Bureau would normally pay for all or part of the expenses; or
- (4) Attending an event related to his or her official duties, while on travel status.

b. **Official travel** means:

- (1) Authorized travel granted to Bureau employees serving in an official capacity; or
- (2) Attendance at formal training.

Recognizing the rate of growth in many fields of expertise involving the Bureau's mission, and the highly desirable goal of promoting the professional growth of Bureau employees, reviewing officials should broadly define the terms "official capacity" and "official travel," to allow the Bureau and its employees the opportunity to take advantage of educational opportunities.

c. **Private acceptance** means the employee is accepting funds in an individual capacity, separate from any Bureau involvement.

d. **Formal training** means:

- (1) The event is a training session where the employee is wholly or partially on duty; or
- (2) Training for which the Bureau would usually cover expenses.

e. **Tax-exempt organization** means an organization which is tax exempt under 26 U.S.C. § 501(c)(3).

9. **GENERAL REQUIREMENTS FOR ACCEPTING OUTSIDE FUNDING.** An authorizing official may approve only a reasonable means of travel and accommodations. Under 41 CFR 304-1.6, approval may be given for travel funding that exceeds Bureau travel limitations, provided that the travel furnished is comparable in value to other similarly situated individuals attending the event; however, an employee may not receive funding for airline travel in First Class or Business Class.

The Bureau may accept funding from outside sources for official travel purposes only if the funding:

- a. Is for employee attendance at a meeting or similar function that he or she will be attending in an official capacity;
- b. Comes from a tax-exempt organization, is incident to formal training, and the training is in a non-Federal facility; or
- c. Comes from a foreign government, and is for travel entirely outside of the United States, where the employee will be acting in an official capacity.

10. **AUTHORIZATION TO ACCEPT OUTSIDE FUNDS**

a. **Requests.** The Bureau must authorize all official travel for Bureau employees provided from sources outside of the Federal Government before the travel takes place.

To seek such authorization, the employee must submit a "Request for Approval of Travel Through Outside Source Funding" (BP-S525.002). All requested information must be provided.

This form and authorization process is **in addition to** the authorization process needed for **any** official travel and the reporting requirements of other travel regulations.

Listed below are the officials who must authorize outside funding of travel. Each official who approves the travel must forward the form to the next office. If any official disapproves, he or she will return the form to the employee and explain the reason(s) for disapproval.

b. **Travel Within the United States.** The General Counsel may approve official travel within the 50 states. The employee must get authorization from the General Counsel and his or her:

(1) Immediate supervisor;

(2) Chief Executive Officer; and

(3) Regional Director (or, for Central Office staff, his or her Assistant Director).

c. **Travel To a Foreign Nation.** Only the Director may approve travel **between** the United States and a foreign nation, and such costs must be paid by the United States. However, an outside source may fund travel **within** a foreign nation.

The employee must get authorization from all the officials listed in subsection b. above and the Director.

d. **Ethics Officer Review.** The General Counsel may approve acceptance of outside funding only after review and written recommendation by the Bureau Ethics Officer to determine whether there is any conflict of interest. At any point in the authorization process, staff may contact the Ethics Officer with any questions regarding the authorization.

11. **CONFLICT OF INTEREST ANALYSIS**

a. Analysis by officials is to determine whether a reasonable person with knowledge of all the relevant facts would question the Bureau's integrity for accepting the funding from an outside source.

b. Reviewing officials are to be guided by, but not limited to, the following factors:

- (1) The identity of the non-Federal source;
- (2) The purpose of the meeting or function;
- (3) The identity of the other expected participants;
- (4) Any matter the source has pending with the Bureau;
- (5) The employee's role in such matter;
- (6) The monetary value of the travel benefits;
- (7) Any issue which arises due to the Bureau's mission, including conflicts which may arise out of accepting funding from other law enforcement or correctional agencies; and
- (8) Any issue which arises due to the status of an inmate in the Bureau's care.

c. Authorization is not to be granted if it is found that the source of the funding, or the event to be attended, discriminates based on sex, race, religion, color, disability or national origin, or if the source or the event advocates the violent overthrow of the United States Government.

d. Authorization for a source of funding or an event may be denied for a finding of an **actual** conflict of interest or for an **appearance** of a conflict of interest. Based on a finding of an actual or apparent conflict, officials may deny authorization to attend the entire event or set limits on travel and attendance to avoid the conflict.

12. **TYPES OF TRAVEL PERMISSIBLE USING OUTSIDE FUNDING.** There are only two types of official travel that may be authorized to be funded by outside sources. The employee must indicate the type of travel on form BP-S525, and, to be authorized, the travel must meet all of the requirements for that type of travel.

a. **Travel in Employee's Official Capacity.** This is the type of travel most often used. The Bureau may accept funding from a non-Federal source (i.e. any source that is not the United States Government) sponsoring or co-sponsoring an event. The employee must be authorized to attend in an official capacity on behalf of the Bureau. No conflict of interest may exist which would

disqualify the source of the funding. Additional authority for accepting funding when the source is a state, county, or municipality is 18 U.S.C. § 209(a).

b. Travel Funded by a Tax-Exempt Organization

(1) **Criteria for Authorization.** This type of travel may be used only for the limited situations when:

- (a) The organization is tax exempt under 26 U.S.C. § 501(c)(3);
- (b) The purpose of the travel is to attend training in a non-government facility;
- (c) The training is considered "formal," that is, the event is a training session where the employee will be wholly or partially on duty, or is in training for which the Bureau would normally cover expenses;
- (d) The tax-exempt organization is not disqualified because of a conflict of interest; and
- (e) The funding is not a reward for services to the tax exempt organization prior to the training.

(2) **Annual Financial Disclosure.** Any employee who is required to file annual financial disclosure reports must report any funding received under this section on either the Public Financial Disclosure Report for Executive Branch Personnel form (SF-278) or the Confidential Financial Disclosure Report for Executive Branch Personnel form (SF-450).

(3) **Authority.** The authority for, and further regulations applying to, this type of travel, can be found at 5 U.S.C. § 4111, 5 CFR part 410, and 41 CFR 304-2.

13. TRAVEL FOR SPOUSES. Receipt of funding for travel for an employee's spouse is considered a benefit to the employee and therefore, should be noted on the request form under #8, "Description and estimated cost of benefits provided." Approval will be granted for an employee to accept funding for travel from an outside source for the employee's spouse to accompany the employee only if:

a. The employee is to be acknowledged with an established award or honor;

b. The spouse will substantially assist the employee in carrying out his or her duties;

c. The spouse will participate in substantive programs related to the agency's programs and operations; or

d. The spouse's presence is required for foreign diplomatic reasons.

Even if all of the above conditions are met, the authorizing official may deny the request if he or she believes there is an appearance of impropriety. The fact that an invitation was extended to the spouse, even if other spouses will be attending, is not enough to establish the need to authorize the spouse's attendance.

14. **SOLICITATION PROHIBITED.** It is improper for an employee to solicit travel funds in any situation, including solicitation for themselves, spouses, or other employees.

15. **PROCEDURES FOR ACCEPTING FUNDS FROM OUTSIDE SOURCES**

a. Once authorization for travel with outside funding has been received, the employee will inform the funding source and put the appropriate Comptroller or Controller in contact with the funding source. If all of the conditions of this Program Statement are met, the Bureau may accept funding on behalf of the employee.

b. Acceptable types of payments are:

(1) Cash payments, which include checks, money orders, and similar forms of payments. The traveler may never personally accept payments of cash or checks for official travel;

(2) Payments-in-kind, which includes tickets, transportation, and other similar services. The traveler may accept payments-in-kind if he or she has received prior authorization on the BP-S525.

Both types of payments should be made out to "Department of Justice/Federal Bureau of Prisons" and should reference the employee's name who received the travel.

c. Copies of BP-S525 "Request for Approval of Travel Through Outside Source Funding", should be attached to all other necessary travel documents.

d. If funding is to be received from more than one source, the employee must seek separate authorization for each source.

e. Since the employee will be acting in an official capacity on the Bureau's behalf, the Bureau may fund any excess expenses within the limitations set by regulations and policy (for example, to meet per diem and expenditure limits). Reimbursements are to be processed in accord with 41 CFR 304-1.7 and 304-2.4.

16. **AGENCY REPORTING REQUIREMENTS.** The Bureau Ethics Officer is responsible in the case of:

a. **Travel in the Employee's Official Capacity**, to supply an agency report on the acceptance of outside funds to the Director of the Office of Government Ethics, in compliance with 41 CFR 304-1.9;

b. **Travel Funded by Tax Exempt Organizations**, to keep records of funding under this authority as required in 5 CFR 410.706, and to help prepare the Bureau's annual report to the Office of Personnel Management on training by completing a Contributions and Awards Report (OPM Form 1307) as required in 5 CFR 410.901; and

c. **Travel Within a Foreign Nation**, for assisting the Chief of Property and Procurement Branch to create an agency report on the acceptance of foreign funding for travel in compliance with 5 U.S.C. § 7342(f); the Program Statement on Property Management, Chapter 8; and Department of Justice Property Management Regulation 128-49.201.

/s/

Kathleen Hawk Sawyer
Director